

### **III. REMARKS**

Claims 19, 59, 62-64, 74-82, 85-94, 122, 124-132 and 135 are amended. Claims 136-156 are new.

In the Office Action, various ones of the claims were rejected under 35 U.S.C. 103 as being unpatentable over various combinations of the cited art: Talbot (US 4,555,805), Raith (5,546,464), Billstrom (US 5,590,133), Lewis (US 6,192,255), Kniffin (US 6,072,402), Serbetciouglu (US 5,719,918), and Kennedy (EP 0680171), for reasons set forth in the Office Action.

More specifically, the rejections are as follows: Claims 19, 21, 23, 27-28, 31, 48, 55-59, 61-62, 65-66, 68, 77-79, 81-82, 84-85, 87, 90-91, 93-94, and 96-98 are rejected on Talbot in view of Raith; Claims 24-26 and 30 are rejected on Talbot, Raith, and Billstrom; Claims 32-34, 67 and 69 are rejected on Talbot, Raith, and Lewis; Claims 35 and 70 are rejected on Talbot, Raith, and Kniffin; Claims 44-47 are rejected on Talbot, Raith, Serbetciouglu and Kniffin; Claims 36-40, 41-43, 74-76, 80, 86, 88-89, 92 and 122-135 are rejected on Talbot, Raith, and Kennedy; and Claims 49-53 are rejected on Talbot, Raith, Kennedy and Lewis.

Applicant's arguments were said to be moot in view of the new grounds of rejection.

With respect to the rejections under 35 U.S.C. 103, various ones of the claims are amended and the following argument is presented to distinguish the claimed subject matter from the teachings of the cited art, considered individually and in combination, thereby to overcome the rejections and to show the presence of allowable subject matter in the claims.

All of the independent claims are rejected on the combined teachings of Talbot in view of Raith, wherein the independent claims 122, 123, and 132 are rejected on Talbot in view of Raith and further in view of Kennedy and Lewis. Generally, Talbot is relied

upon, by the examiner, for teaching a determining of a ciphering mode of communication, and a capacity for communication in an enciphered mode of communication. Raith is relied upon by the examiner for teaching other aspects of the claimed subject matter.

With respect to Raith, it is noted that Raith discloses a method and apparatus for selective resynchronization of the cipher upon initial channel acquisition or handoff. Where synchronization between the old channel and the new channel exists, the base station indicates along with an ITCD or handover message that no resynchronization is required. Where synchronization between the old channel and the new channel does not exist, the base station provides an indication along with an ITCD or handover message that resynchronization is required; furthermore, from the content of this message the manner in which resynchronization is to be achieved is indicated. By providing options for resynchronization, security may be optimized or compromised for handover speed depending upon the specific requirements of the base station or the mobile station. (Abstract).

The Examiner argues that Raith discloses responsive to reception of a cipher mode control signal from the mobile communication network, indicating to a user of the mobile station that the mobile communication network is configured to use an enciphered mode of communication. Raith (Col. 5, lines 49—63) read:

*In a digital cellular communication system employing base stations and mobile stations exchanging ciphered digital data, a method for indicating cipher synchronization is presented which comprises transmitting from a base station to a mobile station a message over an old channel instructing said mobile station to go to a new channel. The message, which may be an ITCD or handover message, further includes an indication of whether or not cipher*

resynchronization is required to the new channel. After receiving the message at the mobile station, the mobile station acquires a new channel and resynchronizes or does not resynchronize its cipher to the new channel in accordance with the indication. By so doing, handover time may be substantially decreased by not performing resynchronization when the new channel is already synchronized to the old channel. (Emphasis added)

The indication is whether or not cipher resynchronization is required. This indication is not provided to the user in any form. Further, it does not give an indication of whether the communication is ciphered or not. In other words, a lack of the indication of cipher resynchronization does not automatically mean that the communication would not be ciphered.

As to the Examiner's comment on Talbot, the applicant does not fully agree with the Examiner. For example, it is believed that the following features are not so evidently disclosed by Talbot, as the Examiner argues.

- a) *monitoring at the mobile station signals sent from the mobile communication network to the mobile station for a cipher mode control signal, the cipher mode control signal for setting the mobile station into an enciphered mode of communication*
- b) *responsive to reception of a cipher mode control signal from the mobile communication network, setting the mobile station into the enciphered mode of communication*

The Examiner refers to col. 3, line 60—col. 4, line 12. This passage reads:

*All signalling communications which are conventionally used to establish a communications channel between the base station and mobile station are retained and system switching to a secure mode occurs upon completion of normal signalling. Typically, such signalling is conducted using tones and the ensuing description will refer to tone signalling.*

*The base station senses completion of tone signalling incident to establishing a communications path with a mobile station and thereafter switches automatically, or only in response to receipt of a secure service request signal from a called or calling party, to a secure mode causing voice transmissions originating therefrom to be enciphered for transmission to a communicating mobile station. The secure service request signal may be a special code dialed by a called or calling party. The mobile station for its part detects receipt of an enciphered voice transmission from the base station and automatically switches to a secure mode so that voice transmissions originating at the mobile station are properly enciphered.*

*By using a deciphering code unique to each mobile station, a mobile telephone system is obtained having a high degree of voice transmission privacy between mobile stations as one mobile station cannot decipher a voice*

*transmission which was enciphered with a code unique to a different mobile station. Thus complete privacy is assured for voice transmissions between the base station and each mobile station.*

The text on col. 6, lines 27—34 of Talbot reads:

*Thus, the secure control signal is applied to line 45 upon completion of all tone signalling transmissions which establish a communications path over a selected channel between the base station and a particular mobile station. Alternatively, terminal 21 may supply the secure control signal only after receiving a signal from a calling or called party, e.g. a dialed code, requesting secure service.*

Also this passage indicates that the enciphered voice transmission is initiated either automatically or by a request from a calling or called party. Therefore, it can be concluded that in the system of Talbot there is no cipher mode control signal sent from the mobile communication network to the mobile station. Thus, the mobile station does not monitor the cipher mode control signal.

Col. 10, lines 47—55 disclose the operation in the called party to switch on the enciphered communication as follows:

*At the called mobile station the deciphering portion 61 output of the secure voice module is monitored and, when reception of an enciphered voice transmission is detected by logic circuit 59, a secure control signal is applied to switch control 65 which causes switch 67 to interconnect the enciphering portion 63 output of secure voice module*

*with the input to transmitter 55, thus completing the switching of the system to the secure mode.*

In other words, the mobile station monitors output of the secure voice module to detect an enciphered voice transmission. This is not the same than monitoring cipher mode control signal sent from the mobile communication network.

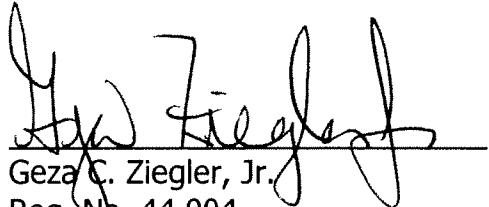
Talbot discloses the secure control signal, but this is a signal generated by the terminal 21 of the base station to control the SW control 29 to switch between enciphered voice transmission and "clear" voice transmission. The secure control signal is not transmitted by the base station. The secure control signal of the mobile station is an internal signal and *is applied to switch control 65 which causes switch 67 to interconnect the enciphering portion 63 output of secure voice module with the input to transmitter 55.*

It appears that an attempt to combine the teachings of Raith with Talbot would require a rework of the Talbot system. As such, there would be no motivation to combine the two references. In view of the foregoing cited passages of the two references, an attempted combination of Talbot and Raith fails to disclose all the features of the present independent claims. Therefore, the examiner is requested respectfully to reconsider the present claims without any further amendments to the claims. It is urged that the foregoing argument has overcome all of the rejections under 35 U.S.C. 103 to show the presence of allowable subject matter in the claims.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,



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